Press Notes issued by the Government. But after that, during this interval I have not had from Government any scrap of paper. I have in my possession a few facts and even according to the members of the Congress party, the Government have not done much and they have not taken adequate measures. They have to allay the public feelings. I want to know what exactly they are doing in this matter.

The other thing that I wish to refer is, in the Business Advisory Committee the allotment of time for the Prohibition Bill was decided.

Sir, I must admit that after we closed the Session I considered over it. We have got 3 hours. Having regard to the magnitude of the discussion and the liveliness that it is likely, to evoke 3½ hours will not be sufficient. I would like to press for the extension of time at the appropriate time.

Sri B. D. JATTI (Chief Minister).—Sir, I am sorry I was not present and I just came to know about the discussion. We have got the statement ready and we will submit it to-morrow to this House for the information.

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## THE MYSORE PROHIBITION BILL, 1959.

*Motion to Resume Consideration*

Sri VEERENDRA PATIL (Minister for Excise, Prohibition and Rural Industries).—I move ;

"Under the proviso to sub-rule (3) of Rule 16 of the Rules of Procedure that the Mysore Prohibition Bill, 1959 introduced in the Legislative Assembly on 23rd December 1959 be permitted to be continued."

Mr. SPEAKER.—The question is :

"That under proviso to sub-rule (3) of Rule 16 of the Rules of Procedure that the Mysore Prohibition Bill, 1959 introduced in the Legislative Assembly 23rd December 1959 be permitted to be continued."

*The motion was adopted.*

*Motion to Consider.*

Sri VEERENDRA PATIL.—I move :

"That the Mysore Prohibition Bill, 1959 be taken into consideration."

Mr. SPEAKER.—Motion moved :

"That the Mysore Prohibition Bill, 1959 be taken into consideration.

†Sri M. C. NARASIMHAN (Kolar Gold Fields).—On a point of order. This Bill *prima facie* offe ds, according to me, some articles of the Constitution and so it cannot be taken up. I will only refer in passing very briefly to those provisions. Clause 15 provides for prohibition of printing or publishing advertisement relating to soliciting of intoxicants, and that is made punishable under clause 65 of the Bill. I might submit that it will offend Article 19 (1) (*g*) of the Constitution because this would go against the freedom of speech and expression guaranteed under the Constitution. Freedom of expression guaranteed under the Constitution under Article 19 (1) is no doubt subject to 19 (2). If it falls within 19 (2), of course it can certainly be sustained but if you read 19 (2) you will kindly see that the restrictions only mentioned on following items, that is, liabel, slander defamation, contempt of court or any matter which offends against decency or morality or which under mines the security of the State. Now, so far as those particular provisions are concerned, they do not offend the security of the State. It does not offend public order or decency.

Mr. SPEAKER.—I am really sorry that the point of order is off the mark. The Hon'ble Members is not advancing any arguments against the Bill itself. He is considering the individual provisions. All these will be relevant, only when the relevant clauses of the Bill an under consideration and the Hon'ble Member will be allowed to have his say so far as the illegality or invalidity of the particular c'ause is concerned. But if he has to say anything on the Bill as such, that would be relevant at this stage.

Sri G. VENKATAI GOWDA.—There are provisions which are against the provisions of the Constitution.

Mr. SPEAKER.–Consideration of those provisions will be relevant when the relevant clauses are under consideration.

†Sri VEERENDRA PATIL.—Sir. I am happy that I have been able to move this Bill for consideration of this August House. I do not know how far the Hon'ble Members of the other side will agree with me when I say that this is a very simple and at the same time, a very important Bill. Sir, while considering this Bill, I would like to make an appeal through you to this August House and to all the Hon'ble Members of this House that there is no need to enter into the controversy whether prohibition has been successful or not because we know what are the views of the Hon'ble Members of this House since we have discussed it sufficiently in the last Budget session. According to some Members, of this House, it was a total failure, but according to me it was not a failure but it was successful. So, we need not unnecessarily take the time of this August House by discussing those things again.

Sri G. N. PUTTANNA.—The present Hon'ble Home Minister. after he took charge of his portfolio, knows very well personally whether it is successful or not.

Sri C. J. MUCKANNAPPA.—Let him say what is the object of the Bill. Let him not make damaging statement to the entire House.

Sri C. M. ARUMUGHAM.—He has not introduced prohibition in Gulburga from where the Minister himself comes. So, what is the use of this Bill ?

Sri VEERENDRA PATIL.—The object of bringing this Bill besides having a uniform law for the entire State is to invest our administrative machinery in charge of enforcement of prohibition throughout the country with some more powers. Sir, the Bill is divided into 10 Chapters. I do not want to deal in detail with all the Chapters because as the Bill is already before the Members, I think they might have gone through it completely. I will read only important Chapters. Coming to Chapter I, as I told you the object of the Bill is to have uniform law for the entire State. As the Hon'ble Members are aware, at the time of reorganisation, four different prohibition Acts were in force our State. There was a separate Act for the Bombay Karnatak area which was formerly part of Bombay State. Similarly for Coorg, there was a separate Act ; for Mangalore District there was a separate Act ; and for old Mysore State, there was a separate Act. At the time of reorganisation, there was no separate Act for the Hyderabad Karnatak area because at that time, the three districts of Hyderabad Karnatak area were entirely wet and at the time of introducing prohibition in one District of Hyderabad Karnatak, that is, Bidar in 1959, the Bombay Prohibition Act was made applicable to Bidar. So you will find four different Acts in force at present in our State and the existence of these four different Acts has caused much hardship and inconvenience while implementing the policy of prohibition. So, a uniform Bill is now before the August House for consideration.

2-30 P.M.

I will deal with some important Chapters. Chapter I deals with the title. provision is also made as to when this Prohibition Act is going to come into force ; immediately, that is, at once and in what areas it is going to be enforced and the dates and all that. The Governmen has power to appoint the dates aud notify them in the gazette. Chapter II deals with 'Establishment and Control'. Under clause 3 of the Bill, provision is made for the apppointment of prohibition Commissioner who will be vested with the powers of superintendence and control and similarly, the Deputy Commissioners will exercise such power within their jurisdiction and the State Government will have power to appoint any other officer than the Deputy Commissioner under Clause 4 (3). Under Clause 7, provision is made for the appointment of Board of Experts to advise the State Government on the question whether any article mentioned in sub-section (1) containing alcohol is unfit for use as intoxicating liquor and such other matters. Provision is made for the appointment of different committees at the district level and other levels also to perform other dutise and also to advise and assist officers

(Sri VEERENDRA PATIL)

in carrying out the provisions of this Act, Similarly, provision is made for the constitution of medical boards also.

Chapter III defines what acts are prohibited under this Act. I do not want to deal with this Chapter in detail.

Chapter IV deals with control, regulation and exemption. This prohibition will enable the Government for granting license for distilleries and warehouses for intoxicants and similarly for issuing permits for tapping of neera and also for issuing permits to foreigners residing temporarily in India and also for issuing health permits, emergency permits and such other permits.

Chapter V enables the Government to levy excise duties, the manner of levying excise duty and collecting excise duty.

Chapter VI deals with penalties and offences. Provision is made in this Chapter for substantive punishments. I do not want to read out those relevant sections. For illustration I shall refer to Section 58(1). In case of conviction, the convicted person shall be punished for first offence with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000 and like that. And in this case the discretion of the Board to a large extent has been restricted by incorporating the proviso, namely : "Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shal not be less than five hundred rupees.

Sri C. M. ARUMUGHAM.—On a point of order. According to the rules of procedure, when a Minister moves a Bill, he must make general remarks but not take every section and offer remarks.

Sri G. VENKATAI GOWDA.—He has been telling that the powers of the court have been restricted. He has not been able to give reasons for that, as to why the Government have sought to curtail the powers of the court through this Bill.

Mr SPEAKER.—In the first place, when we are considering a Bill, it is true to say that we are considering only the general principles of the Bill. But while explaining the general principles of the Bill it is not incorrect to refer to the provisions of the Bill. But when referring to the provisions of the Bill it should not look as if we are considering the provisions of the Bill. The general Policy man be explained by refering to the provisions of the Bill.

Sri VEERENDRA PATIL.—Now I do not wish to take more time of this House. As I said, provision has been made in Chapter VI for giving substantive punishment to the convicted persons. Chapter VII contains special rules of evidence and procedure regarding trial of offences.

Sri M. C. NARASIMHAN.—It should be explained as to what prompted the Government to fix the minimum punishment.

Sri VEERENDRA PATIL.—That is why I wanted to reply to the point of order.

Mr. SPEAKER.—The whole scheme of the Bill can be explained by the Minister and when he explains the scheme of the Bill, he can also explain the punitive provisions of the Bill ; but it should not look as if we have taken the relevant provisions and discussed.

Sri J. B. MALLARADHYA.—A very important matter is raised, They have sought to restrict the powers of the court in regard to award of sentence.

Mr. SPEAKER.—Honourable Members will be allowed to refer to that aspect in the course of the debate.

Sri VEERENDRA PATIL.—Charter VIII contains powers and duties of officers in the matter of detection and investigation of offences. I do not want to deal with the other Chapters where micellaneous matters have been discussed.

Now without taking much time of the House, I will be giving satisfactory explanations to all the objections raised by the Honourable Members afterwards when we take up the consideration of the Bill clause by clause.

With these few remarks, I commend this Bill for the consideration of the House,

Sri G. VENKATAI GOWDA.—May I request the Hon'ble Minister to explain what promted the Government to fix the minimum punishment, not giving the discretion to the courts ?

Mr. SPEAKER.—All that can be raised during dicussion.

Sri M. C. NARASIMHAN.—Sir, when the Hon'ble Minister introduced the Bill, he has not made any mention about the departure of the policy ; he simply read out the Objects and Reasons, as if we cannot read it.

Sri C. M. ARUMUGHAM.—When the Bill was introduced, my friend was in the opposite camp.

Mr. SPEAKER.—It is not fair to say so ; he was not in the opposition camp ; he was in the Congress party.

Sri J. B. MALLARADHYA.—Sir, there is another important point. There is the Financial Memorandum attached to the Bill. The Hon'ble Minister has not even made a passing reference to the implication.

Mr. SPEAKER.—The Hon'ble Member may raise all that while offering these remarks and get a reply afterwards.

Sri M. C. NARASIMHAN.—May we know whether this Bill is going before a Select Committee Sir ?

Mr. SPEAKER.—No, there is no question of this Bill being refered to a Select Committee or a Joint Select Committee. After the first consideration is over if any Hon'ble Member feels, so, he may make a motion.

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.—ಸ್ವಾಮಿ ಈ ಬಿಲ್ಲನ್ನು ಸೆಲೆಕ್ಟ್ ಕಮಿಟಿಗೆ ಕಳಿಸುವುದು ಏನಾದರೂ ಸಾಧ್ಯವೆ ?

ಅಧ್ಯಕ್ಷರು.—ನನಗೆ ಗೊತ್ತಿಲ್ಲ.

† Sri V. SRINIVASA SHETTY (Coondapur).—Sir, I was rather astonished at the cavaliar way in which the Minister for Excise sought to move the Bill to get it passed. He is so cock-sure that there is nothing to discuss about it. It is as if that all that ought to have been said and that could be said has been said in this House and they need not be repeated again. The Bill according to the Minister, is a very necessary piece of legislation which everyone of us has to consent to. I, for one, beg to differ from him. Of cource; his new found enthusiasm for prohibition is a little bit misplaced. Sir, most of us on this side and some at least on the other side have repeated times without numher, the mischief that is committed by this so called, prohibition Act. Now we cannot allowe this barbarous piece of legislation to go without some comments. We have also some responsibilities. Sir, I deliberately say that this is a barbarous piece of legislation.

Sri RAMAKRISHNA HEGDE (Sirsi).—Sir, is it parlimentary to say 'barbarous' ?

Mr. SPEAKER.—It is.

Sri V. SRINIVASA SHETTY.—Sir, I am prepared to take a worse word. I do not mean any offence to any Hon'ble Member on the other side. I only say, it is barbarity committed on the people of the State. The Minister is an innocent instrument in the hands of his party. Sir, we had the bitterest experience for the last 14 years under the mis-duided party and the mis-guided ideology of theirs. I have repeated this several times. Sir, accidently, I simply opened a book very recently published—an American Publication—titled "The underworld in U. S. A." We have an underworld here also. The whole of this book deals with prohibition, I shall read only one paragraph from this book. It is called, "Noble Experiment." Possibly, some of my friends on the other side think that this is a noble experiment. I also a feel it so, if only, the end is achieved is a noble one. But what are the consequences ?

> "Except for illegal gambling, crime was unorganised before National Prohibition.
>
> Independant criminals, attracted by bigger and better loot than they ever dreamed about, took over as large industry-in Small bits in the begining.

They were catapulted into manufacturing and importing, compelled to deal with each other to organise transportation and distribution–rumrunning and bootlegging–and later communication and credit.

Monopoly in rumrunning and bootlegging became attraction to any criminal with vision. The Little Caesars emerged as leaders who designated murders to kill competition.

Out of these under world wars came the brainy criminal strategists who formed alliance for mutual protection, first on a small scale and later on a large one. They laid the foundation for a national crime syndicate".

That is the experience in America and that is the experience of our Hon'ble Minister who is piloting the Bill and the Hon'ble Home Minister who is conveniently absent to-day. Ha has toured all over the State and has found to his utter disgustment that what we are bowlling out in this House is totally true. Bootlegging is the biggest industry in this State. The Hon'ble Ministers have toured and they have raided the prohibition dens along with constables. To say the least, it is not a very happy thing for Ministers to take part in the investigation and go into these dens.

Sri C. J. MUCKANNAPPA.—In Kolar district four constables died when they used the coconut milk because folidol was mixed and a charge–sheet has been filed and the case has been committed to sessions.

Sri V. SRINIVASA SHETTY.—Sir, when the Ministers raided the dens with constables, photos are taken and published. Is it for this purpose the Government want to have this or do they want to achieve anything out of this ?

I am very uncertain about this, the ends to which these people are driving. Of course, for a few months, I say that the Government and the police machinery was very vigorous and they seem to have trod on some very delicate grounds. For a month or two I found a little nervousness on the part of the Government and the police showed great courage in raiding very big people. As election approaches, we find things are softening a little and there is that soft-pedalling ; and I know that as the election approaches, not only prohibition is not going to be introduced in Gulbarga but all these raids are going to stop just a month or two prior to the election. Even now, we can see the soft-pedalling after the first flush of enthusiasm for a few months.

(Mr. DEPUTY SPEAKER in the Chair)

Is it an honest way of dealing with crime position Sir ? I doubt very much. Sir, I do not know the experience of my Hon'ble friend the Excise Minister on the other side. I have got plenty of experience of the working of this prohibition because my unhappy district was one of the districts which came under prohibition law very early—even in

(Mr. DEPUTY SPEAKER)

the earliest days when the revered heads of the Congress who are no longer in the Congress--in a misguided moment they take a decision to introduce the Prohibition Law in the old Madras State and my District also came under that law and suffered very heavily as a result. To-day, if there is any one big distillary in the State, it is my district. The entire district is one big distillary. It is not a small distillary. It is a big distillary. My friend the Hon'ble Law Minister may or may not agree with me.

Sri B. VAIKUNTA BALIGA.—If my Hon'ble friend expects concurrence from me, he is mistaken. I contradict it.

Sri M. C. NARASIMHAN.—Is it a small distillary Sir ? It may not be a big one ?

Sri V. SRINIVASA SHETTY.—Sir, I am very happy that my Hon'ble friend contradicts me. I hoped for it.

Sri B. VAIKUNTA BALIGA.—What is the extent of the District and what is the extent of the distillary you have in mind ?

Sri V. SRINIVASA SHETTY.—It is a big district Sir. And there is not only one. There are hundreds of scuh distillaries all over the country, all over the State.

Sri C. J. MUCKANNAPPA.—Why do you try to offend only the Minister from South Kanara ?

Sri V. SRINIVASA SHETTY.—I also come from that district. He is not alone.

Sir, we have found that the Government all these years have shut their eyes and they have not taken any drastic action in the matter. Why this shortlived enthusiasm ? Have they no intelligence machinery? Have they no police force to find our this ? Sir, I have had talk with the police officers who went on investigation in my district and in other districts. Officers who made thorough investigation said that it is an evil which has very deep roots. It is very difficult not only for the Congress Ministry or any Ministry to uproot it. And by what methods do Government try to uproot the evil Sir ? by setting at naught the powers of the court by setting at naught the constitutional provisions and safeguards which are sacrosanct for all of us and by setting at naught the rules of procedure and all standards of decency--they want to enact a legislation by which they want to threaten people into obeying this law—gullible people into obeying this law and making it a success ! Whether they are going to succeed or not, there are examples, innumerable examples all over the world not only India—all over the world they have tried this experiment, Only the blind carnot see. Only my friends on the other side cannot see ! These are the only two categories of people who cannot see.

Sir, formerly in my State the police were not entrusted with the power to enforce prohibition. There was what was called the prohibition Department or the Excise Department and in my own district, the police generally did not interfere with these things. It was the Prohibition Department that dealt with this law. I can readily say that the enforcemnt of the Prohibition Law was much better when the Prohibition Department was there. There was a big controversy whether the police are better at enforcing prohibition or whether it was better enforced by the Prohibition Department. The Government as a matter of economy, as a matter of better investigation, combined the two departments and entrusted the work to the Department of Police. But in fact, it is not a secret that there was corruption even at that time in the Police Department. But Sir, considerably less corruption. Is there was say 25 per cent corruption in the police before this prohibition was entrusted to them, I do not know whether it is 75 per cent or 90 per cent or 95 per cent to-day!

An HON'BLE MEMBER.—99 per cent.

Sri V. SRINIVASA SHETTY.—My friend says it is 99 per cent. It is not only double but treble—I say it has reached the saturation point now. When the matter was discussed by some of us including the Home Minister and when it was said that the prohibition could be enforced more strictly through the police, I requested the Home Minister to make out a list of officers who were willing to enforce prohibition with honesty and sincerity. No doubt, things went on briskly for some time. But Sir, I say power is also one of the intoxicants—not only liquor. Power is a bigger intoxicant than liquor and some of my friends on the other side may be prohibitionists. They have power and they think that they can do anything. They can only introduce prohibition wtih their power. As I said we must be very wise. We must learn from the mistakes of others. Every Government I agree has unlimited powers practically. But that unlimited power should not be misused and as ametuers--please excuse me for using this word 'ametuers'—they have gone about with the police in detecting prohibition offences and getting photographs with pots and pans and other distillation instruments and they think they will achieve success through these means. My Hon'ble friend said already when the Home Minister was here that there are instructions issued to the police officers not to book cases but to destroy the instruments of distillation and contents.

MR. DEPUTY SPEAKER.—He may continue after the Tea interval.

The House will now adjourn and meet after half-an-hour.

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*The House adjourned for recess at Three of the Clock and reassembled at Forty Minutes past Three of the Clock.*

[Mr. DEPUTY SPEAKER in the Chair]

Sri V. SRINIVASA SHETTY.—Sir, I was referring to the very peculiar way in which this Act is sought to be enforced by the present incumbents. We were astonished to hear or read in the papers that innumerable pots and pans were found wherever the Minister went People were found distilling in public. The Congress President of South Kanara, the Congress Secretary and umpteen Congressmen accompanied the Minister and they found a number of illicitly distilled pots. People were found actually distilling liquor in their presence. I find, on a close scrutiny and enquiry, that some of these things were stage-managed.

ಶ್ರೀ ಎಂ. ಸಿ. ನರಸಿಂಹನ್.—ಸಾತ್ ಕ್ಯಾನರವಲ್ಲಿ "ಪಕ್ಕಬನಣ್ಣ" ಎಂದು ಹೆನರಿಟ್ಟಿದ್ದರಲ್ಲವೇ ? (ನಗು).

Sri V. SRINIVASA SHETTY.—I find it difficult to reconcile how a hard of People, practically a procession, led by the Hon'ble Home Minister or Excise Minister, could find people openly making illicit distillation in their presence. Even a single constable will give enough clues to a bootlegger to run away. As a matter of fact in this State we find the Ministerial procession going right into the den of the bootleggers actually distilling liquor and the Ministers scooping upon them, arresting them, giving a regular lecture to them, a sort of homily. Of course they are generally let off. Actually, I can reveal to the House that in a few cases, the Congress President of my Dist ict, the District Board President and quite a few bigwigs have been cited as witnesses. A person who out of curiosity or otherwise, or as a matter of political propaganda, accompanied the Minister now find themselves in the unenviable position of having to give evidence in a court. I do not know if the Minister has been cited as a witness for the prosecution or the defence. It is just possible, if the Hon'ble Ministers make it a habit to detect cases personally, one of these days they would be dragged into a court of law. I do not know if these bigwigs to are willing to give evidence in a criminal court. If they do not give evidence, you know the fate of these cases. It is a fact that some of these things of which we read in the papers are stage-managed and not true to facts. This is certainly not the way how things ought to be done if the Government are sincere about enforcing the prohibition law.

I will now take up certain salient features of the prohibition Bill as placed before the Assembly. The acts of the various integrating States had enough penal provissons, They were quite sufficient for the purpose of deterring prohibition offences. Actually, I know as a lawyer, that courts of law tend to take a lenient view. Hundreds of case come in and they fine a drunkard Rs. 5 or so. What is the poor Magistrate to do. He cannot enquire into all the cases. So as a routine work, everybody is fined Rs. 5 Naturally the offender pays Rs. 5 for goes out and drinks again. It may be Rs. 5 for drinking, or Rs. 35 for possession of certain quantities or it may be Rs. 50 or

Rs. 100 if the quantity is more, or it may be a month or two for distillation etc. But what is the Magistrate to do. I do not know whether it is far to reveal all these things. The Magistrate comes to know the *modus operandi* of the Police. If the police catch 100 bottles of liquor, they produce one bottle or a pint or half a pint. The police either destroy the liquor or otherwise dispose it off. The courts are human beings and if they come to know of the ways of the police they know that the whole thing is a farce. When the police do not co-operate with the law, what is the use of courts punishing the people. Two Ministers, who have the reigns in their hands and who are to enforce this law, think that by making punishment more deterrent, in fact, in human or barbarous, they can come down upon the violators of law. I remember one Magistrate tell in the open court that shooting the offenders is the only remedy. Otherwise this offence cannot be eradicated If the Hon'ble Minister is really bent upon making the law a success, I suggest shooting of offenders for his serious consideration. No other law in the world will stop drinking or illicit distillation. Of course you can make the law human and purposeful. This Bill is misguided, which as I said, is a barbarious piece of legislation.

Now, let us see how this Bill will in actual practice work. Many a time before we have raised this matter before the House whether the fact of handing over enforcement of the law to the Police has not resulted in its total failure. Government have partially admitted that it has not been a success. We are coming closer in our approach. One astonishing view was propounded that this would be entrusted to a non-official body consisting of Congressmen. They would enforce the law.

Sri VEERENDRA PATIL.—Where is the provision that enforcement is going to be entrusted to non-officials and that too all Congressmen. By non-officials we do not necessarily mean Congressmen.

Sri G. N. PUTTANNA—We know the general practice. We know by experince that non-Officials are meant only for Congressmen.

Sri V. SRINIVASA SHETTY.—I have no doubts on the issue. In view of the approaching elections, this will be the best remedy. It will be effective. Sir, I know that the Hon'ble Excise Minister has suggested...I am told ...that in North Kanara Districts, there are what are called Home Guards.

Sri VEERENDRA PATIL.—They are not Congressmen.

Sri V. SRINIVASA SHETTY.—I do not know. They may be henchmen. I should say that these are all ludicrous measures—entrustinn these to private parties. Entrusting there measures to police officers, you have found it a failure. Entrusting this to a non-official agency, I should say, is a worst blunder. We know how corruption works, We know this won't be a success. In the Bill, it is found, that the

(Sri V. SRINIVASA SHETTY)

Government are not sure who is the authority to enforce these measures. They have not made up their minds. With all the experience of fourteen years, the Government have not made up their mind. When do they propose to make up their minds? Is it after passing the Bill? Which is the best authority to enforce this law, the Government have not made up their minds. That is one of the lacunae in this Bill. They are not quite sure whether the police are the best instruments of enforcement; The Excise Minister thinks, they are not. But the Home Minister thinks, they are. Therefore the Excise Minister thinks or wants some other authority to enforce the law. With regard to neera, the cottage industries department are supposed to be the best persons to enforce the issue of permits. That will be another racket. So this is how the Government are viewing these things. I suppose they themselves are not quite sure which is the authority which ought to deal with this. They ought to have made up their mind before bringing this Bill.

There is another mischievous things under cluase 6, *i. e.*, even private persons are to be invested with certain powers.

> "The State Government may also invest any person working in an honorary capacity or otherwise with such powers, impose on him such duties and direct him to perform such functions under this Act, rules, or regulations or orders made thereunder as may be deemed necessary. Such persons may be given such designations as the State Government may deem fit."

I do not know whether the Hon'ble Minister for Excise may, in his own constituency, want to invest a number of persons with powers under the Prohibition Act. I do not know what is the criterian and who are the persons competent and fit enough to be invested with powers under this Act.

Sri G. N. PUTTANNA.—Congress people.

Sri V. SRINIVASA SHETTY.—Congressmen are not the best persons. This is a very dangerous provision. Law enforcement cannot be given to private parties. It is a dangerous provision—who are the persons competent under the Bill?

Another very ticklish problem that has come before the Government and the whole country is whether to permit tourist industry or not. It is a national policy of the Government. Certain provisions have been made in the Plan to support the tourist industry. Tourists, of cource, are not prohibitionists. We find more people addicted to drink coming to India than are not. All over the world drinking is not a sin, except to Congressmen in this country.

Sri M. C. NARASIMHAN.—What about West Bengal and Punjab? Are they a special brand of congressmen?

Sri V. SRINIVASA SHETTY.—They are special brands. In the country itself there are any number of Congressmen, a particular brand of congressmen who are against prohibition. In all the States they exist and they refuse to enforce prohibit on, because it is most uneconomical and that it is not a success. I suppose there is no sin at all there. Apart from this, the tourist industry in the country is a very important industry. I am going to quote one instance. One or two years ago, Mr. and Mrs. Frederick March came to Madras. They had some liquor bottles. They were arrested and some unimaginative Police Constable refused to release them on bail. What an amount of scandal it created. Frederick March is a very famous actor in the world. He is a very important American citizen. They were dealt very cavalierly and harshly. They were detained for two days in the Policy lock-up. Of course, it created a lot of trouble for Madras. No doubt, statement were made denying all that.

This Bill, in this State, has made certain provisions to give permits. But after the Bill was published, very recently, the Central Government, more sensibly, has made certain other provisions.

Sri M. C. NARASIMHAN.—I suppose the Government has concurred with it.

Sri V. SRINIVASA SHETTY.—There is all India permission. It is not necessary for a foreigner to beg a police man or a revenue official for a permit. It is the Government of India which issues a permit to all the States. Therefore, these provisions are redundant.

I wish to bring to the notice of the House about two very important hotels which are run by the Government—Hotel Metropole and Hotel Brindavan. After the introduction of prohibition to Mysore District, what happened? This Government found it very difficult, very inconvenient, very uneconomical to run these hotels. These very important hotels became bankrupt. In Hotel Brindavan, the daily collection was reduced to twenty-five rupees. I found in the daily papers that contracts for running these two hotels are to be given to private persons. I do not know whether the Government has already given. I understand they have decided that it is not worthwhile to run these hotels and therefore have decided to give to private parties. This is a sad state of affairs.

Sri M. C. NARASIMHAN.—They have given already.

Sri V. SRINIVASA SHETTY.—I do not know. I only read in the papers that these hotels were to be given to private contractors. I may remind the Government that for the working of the Five Year Plan, we are day in and day out issuing fresh loans, fresh taxation and etc. But all the while, the highest officials in the Excise Department assure us that twelve crores will be the income from the Excise Department if prohibition is scrapped. Twelve crores is only a conservative estimate. Twelve crores we are throwing away. I do not

(Sri V. SRINIVASA SHETTY)

know what is the amount which is involved in the enforcement of the law. This apart, the tourist industry which is tried to be boosted by every Government is going to dogs. Hotel Metropole and Hotel Brindavan have become bankrupt and Government have given these two hotels to private persons on contract. This is the sad state of affairs which has resulted in the enactment of the prohibition law all over the State.

4-00 P. M.

I will only refer to cer tain very dangerous provisions in this Bill.

Possession of certain very innocent articles like molasses is made an offence under Clause 43. I do not know whether my friend the Minister for Excise knows that there are villagers who manufacture jaggery; In my own district and all over the State lakhs and lakhs of people manufacture jaggery. I suppose that it is common knowledge that molasses are the most important bye-product of the manufacture of jaggery. I have been trying to find out whether there is any escape for these innocent manufacturers of jaggery. This is not the only clause of this kind There are a number of clauses in this Bill which prohibit the possession of molasses. How can you prevent the possession of molasses. by those who manufacture jaggery. I do not know whether he has to take a permit from the police officials or revenue officials or approach the Minister for Excise or the Home Minister for a permit to possess it. Any police officer can go and arrest a man for the more possession of molassess. I do not know whether the Hon'ble Minister for Excise has considered this very important provision which will hit thousands of villagers belonging to the agriculturist community who are preparing jaggery.

Now, I come to clauses 58, 59 and 64 which deal with penalties. Government or whoever is responsible for the drafting of the Bill seem to have copied many of the provisions from the Bombay Act and some from the Madras Act. What is the rational behind these punishments ? What is the yardstick by which you have measured these punishments, I am unable to understand. Government are not in a position to defend their action. Within a mile, anybody can drink and it is not an offence. Even in our own State of Mysore in this holy land, in the headquarters of the State, one, can, as my friend puts it, can drown himself even in the pesence of the Excise Minister or of the highest police official. But just beyond that limit, it is not only an offence but a most heinous offence.....

A MEMBER. Punishable with death sentence.

Sri V. SRINIVASA SHETTY.—Not with death sentence but short of it but with two year's imprisonment.

Sri VEERENDRA PATIL.—Do you mean to say that prohibition offenders should not be punished at all? Then, what is to be the policy with regard to the prohibition on offenders? You say that prohibition has not been successful and that it has failed. And to make it a success, if we provide for some penalties, you raise a hue and cry that it is barbarous.

Sri V. SRINIVASA SHETTY.—I am unable to understand how the Minister could have misunderstood me. Clause 58 deals with punishments for the first offence, second offence, third offence and subsequent offences. It is provided that for the first offence, the minimum punishment shall not be less than six months and the minimum fine shall not be less then five hundred rupees. There by, the Court is prevented from giving less than six month's imprisonment and fining less than five hundred rupees except for sufficient or valid reasons The same is the case with regard to the minimum punishment for the second, third and subsequent offences.

Then, clause 59 provides :—

"Whoever, in contravention of the provisions of this Act, or of any rule or order made, or of any licence, permit, pass or authorisation issued thereunder—

(*b*) consumes, uses, possesses or transport any intoxicant or hemp ;"

The wording used is 'consumes or transports...'.

Now, I have to deal with these cases. I have read several Acts but no where consumption is mixed with use, possession or transport of any intoxicant. This is only jumbling of offences. I do not know whether a consumption of a pint of liquor is same as transporting it. A merchant who is in the habit of transporting is clubbed with a person who drinks a pint of liquor. I do not understand whether the Government have applied any commensense in framing this clause.

"(*c*) taps or permits or suffers to be tapped, any toddy producing tree ;

(*d*) draws or permits or suffers to be drawn toddy from any tree ;

shall on conviction, be punished—

(i) for a first offence with imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees ;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees ;

(Sri V. SRINIVASA SHETTY)

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one thousand rupees ;

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees ;

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court. such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees. ''

Sri VEERENDRA PATIL.—As the Hon'ble Member knows these provisions have been already existing in the Bombay Act and they are in force in the Bombay Karnatak area. I want to know what havoc they have caused to the innocent public in that area.

Sri V. SRINIVASA SHETTY.—My experience as a lawyer is, more stringent the punishment greater is the corruption. A person who is liable to a fine of Rs. 2,000 will pay Rs. 200 and escape. On the other hand a person who is fined Rs. 5 will never give any bribery.

Sri VEERENDRA PATIL.—When this prohibition policy was discussed last time, the consensus of opinion was that unless imprisonment was made compulsory, we will not be succussful in the prohibition policy.

Sri V. SRINIVASA SHETTY.—That opinion was on the other side. Clause 64.

"Whoever, in contravention of the provisions of the Section 43 or of any rule or order made or of any licence or permit granted under this Act, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both."

I have already mentioned that there are lakhs and lakhs of agriculturists in the State grow sugarcane and they will be in possession of molasses. What is the remedy you have provided for such persons ? Should they be hauled up? Who is going to give them succour—not the minister. They are in the hands of policemen. Unless some protection is given to them here, the police will harass them and the agriculturists will suffer very grievously.

Apart from this, there is a very stringent punishment provided for conspiracy.

"When two or more persons agree—

(*a*) to commit or cause to be committed any offence under this Act, or

(*b*) to commit a breach of the conditions of a lincence, permit, pass or authorisation, each of such persons, shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both."

If two friends join and say "let us have a drink", it constitutes a conspiracy. This is too bad. There is another wonderful provision. Clause 76. Under this clause :

"whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

(*a*) is drunk and is incapable of taking care of himself, or

(*b*) behaves in a disorderly manner under the influence of drink, or....." "....."
shall on conviction be punished—

for a first offence, with imprisonment for a term which may extend to one month, and with fine which may extend to two hundred rupees....."

If a person drinks and is incapable of taking care of himself and is found in any street, the punishment is imprisonment for one month. Whereas, in the other clause for a person who drinks, the punishment is six months for the first offence.

Sri J. B. MALLARADHYA.—The Bill does not say about a person with a permit.

Sri VEERENDRA PATIL.—If he drinks with a permit; it does not constitute any offence.

Sri V. SRINIVASA SHETTY.—He is not eligible to hold permits under this Section. Under Clause 76, penalty is provided for persons peing drunk and for disorderly behaviour It is one month for the first offence or fine extending to Rs. 200; and for second and subsequent offences, it is 6 months and fine extending to Rs. 500. But in the other case, for a first offence the punishment is six months and a fine of Rs. 500 and for the second offence, the punishment is two years and a fine of Rs. 2,000 and for a third and subsequent, it is two years and a fine of Rs. 2,000 It is a mad world? Are we in a dreamland ? Of course, the Government is all powerful, all-knowing and all-wise' and it has framed its laws. This is a section which struck me as a very incongruous section to say the least. A person who dare not go in a disorderly manner is punished with six months, but a person because he creates havoc on the road is punished with seven days. No doubt some higher punishment is prescribed for a second and subsequent offence. Clause 77(2) says that it shall be presumed until the contrary is proved that the person accused of an offence under sub-section (1) has committed uch offence, if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

(Sri V. SRINIVASA SHETTY)

For a lawyer, this is an obnoxious piece of law. Presumption is to be in favour of an accused. But presumption seems to be against the accused. There is a very dangerous section for doctors also. Clause 79 says:

> "If a registered medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor or intoxicating drug incontravention of the provisions of this Act, or rule or order made thereunder or any licence, permit, pass or authoritation granted under this Act, he shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both."

Suppose a doctor issues a permit and later on it is found that he was not entitled to use it and he is hauled up and punished with imprisonment of six months. My friend must be knowing that innumerable permits are issued now, for valid or invalid reasons. So, the fraternity of doctors must also be beware of the clutches of this peculiar law. I do not know some of the innocent doctors may also be involved. Sir. we know the barberous punishments whether inflcted or not that is provided under this Act. Clause 80 says:

> "Any perion who, maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand ruqees, or with both."

A person may give false information involving an honest person and later on the whole thing may be found to be concocted and false. What is the punishment? It is not One year or two years. It is six months and Rs. 1,000 fine. I do not know the scale. It is a very peculiar scale that is held by the Government or the powers that be in weighing these offences. For heinous crimes, the punishment is six months, but for mere drinking it is punished with one year.

Sri VEERENDRA PATIL.—You suggest your scale. All along you have been criticising. You are not giving any suggestion. I want to know what would be your scale. You want punishment should be deterrent in this case.

Sri G. N. PUTTANNA.—This Act need not give any power for such a thing. Section 182 of the I.P.C. is sufficient.

Sri V. SRINIVASA SHETTY.—If the Government are prepared to take my suggestion, I am willing to give. But I know the Government are blind to our suggestions. Therefore, I am not prepared to give them. There is one more clause. Even the possession of molasses by an

agriculturist or a person who manufactures jaggery is presumed to have committed an offence under Clause 85. He can be dragged to a court of law. It requires to be locked into very closely. I do not wish to go clause by clause. I have given amendments and I am going to deal with those things when they come up. Another clause to which I should like to refer to in this connection is Clause 87 which relates to procedure to be followed by Magistrates. Sir, under Section 103 of the Criminal procedure Code, witnesses ought to be of the same locality. But Clause 87 says that no search shall be deemed to be illegal by reason only of the fact that witnesses for the search warrant are not inhabitants of the locality in which the place searched is situated. I would have to mention our experience. I do not like to name the Magistrate. I know of one Magistrate in Mangalore who was specially trying these cases who used to question the witnesses as to how many Prohibition cases in which they were cited as witnesses before because the Police has got a set of witnesses, Ex-convicts and Ex-offenders and they used to take them to those places for this purpose. You know how these searches and all these things are done by the Police.

4-30 P.M.

They have got a set of persons who always used to go and attest to these things. Of course, these witnesses are disbelieved by the courts; under Section 103 they are not local witnesses. To get over this, the Government has proposed this wonderful provision. No lawyer would propose such a thing. The ordinary rule of criminal law is, 10 guilty persons might not be convicted, but not one innocent person should be convicted, What is this devilish piece of legislation which says that Police can take any witness and get attestation made from him and get an innocent person convicted. The fundamental is against the very criminal law.

Clause 88 says:

"(1) In the absence of any provisions to the contrary in this Act, all offences under this Act shall be cognisable...

(2) Offences under Section 58, Section 59 or Section 60 shall be non-bailable."

According to this section, all these offences are non-bailable; ordinarily the courts have no right to release the accused on bail.

Sri VEERENDRA PATIL.—In non-bailable cases are not courts releasing the accused on bail? You know very well; I know very well.

Sri V. SRINIVASA SHETTY.—In non-bailable offences the accused are not entitled to be released on bail; the court may take a different view, may think that the office is so grave as to detain the accused in custody for a week or two.

Sri VEERENDRA ATIL.—The Court has got inherent right to release the accused on bail even in respct of non-bailable offences.

Sri G. VENKATAI GOWDA.—In bailable offences, the accused can claim to be released on bail as a matter of right.

Sri VEERENDRA PATIL.—We want to leave this to the discretion of the court.

Sri V. SRINIVASA SHETTY.—Mischief can done to this extent, the person who commits an offence can be clapped in jail for a number of days. My friend Sri Mallaradhya gives an instance that during election time a case may be foisted on any person and the person detained in jail because his presence might be inconvenient to the party though later the person may be acquitted.

Another thing, blood test is introduced. The blood of an accused person is taken for testing. What is the time required in testing the blood and intimating the result. Suppose the Court refuses to release the accused on bail. The blood is taken and sent to the expert for testing and it may take a month or two to get the result and till then, the accused should go on rotting in jail.

Clause 90.—

"Nothing in the Probation of Offenders Act, 1958 (Central Act 20 of 1958), or Section 562 of the Code of Criminal procedure, 1898, apply shall to any person convicted of any offence under this Act,

Under Section 562 of the Cr.P.C. certain powers are vested in the Magistrate to warn the first offender. Innocently or otherwise a person takes liquor. According to this provision, such a person cannot be warned That power is also taken away from the court.

Security provision are also introduced. Under Clause 91.

"(1) Whenever any person is convicted of an offence punishable under this Act, the Court convicting such person, may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means with or witout sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not excceding three years as it may direct."

The accused becomes a notorious person who is in the categor of robbers and dacoits under Section 109 of the Cr. P. C. and security for good behaviour for three years is taken under Clause 91.

"(2) The bond shall be in such form as may be provided under the provisions of the Code of Crimiual procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep peace, ordered to be executed under Section 106 of the said Code.

"(3) If the conviction is set aside on appeal, the bond so executed shall become void."

Supposing upon conviction he is asked to give a bond; and he refuses to give a bond. I am unable to say under what provision anywhere in the world such a procedure is followed.

Sri VEERENDRA PATIL.—The word 'may' is used. It is for the Court to decide whether security should be demanded.

Sri V. SRINIVASA SHETTY.—'may' includes also 'may not'. Suppose there is a quixotic or perverse Magistrate. Such a person can do a lot of harm.

Sri VEERENDRA PATIL.—When we want to restrict the power of the court, you object; when we want to give more power to the court, then also you object. Even if a power is given to the court, it is for court to decide all these things. Why are you expressing doubt about the *bona fides* of the judiciary ?

Sri V. SRINIVASA SHETTY.—It must be in consonance with the crime. The punishment is too drastic, unheard of. Even for mere drinking, a person can be asked to give a bond for good behaviour for three years.

Sri G. VENKATAI GOWDA.—Not for drinking. Please read Clause 92.

Sri V. SRINIVASA SHTTY.—If any person in respect of whom a bond is ordered to be executed under section 91 is a minor, the bond shall be executed by a guardian.

Sri J. B. MALLARADHYA.—Mr. SPEAKER; are now watching the way in which the discussion is going on and I think the time allottedis far indqauate. We want at least two more days to discuss this Bill Even on Member on this side has not finished his spech; he will take anothər hour. I move for the eztention of time by two more days. I do not know whether some of the Members are proposing to refer this to Select Committee, but I do not think there is any need for doing so a Some of the provisions of this Bill are so drastic that they appear to interfere with the fundamental rights of the people.

Sri VEERENDRA PATIL.—The time allotted is 3½ hours. I have no objection for the discussion being crntinued even to-morrow. But it should not be continued day-after-to-morrow also.

Mr. DEPUTY SPEAKER.—To-morrow we shall consider the question of extension and not now.

Sri J. B. MARADHYA.—So I, take it that the discussion would be extended for nother 3½ hours. The Hon'ble Minister has no objection to take the Bill for discussion to-morrow also.

Mr. DEPUTY SPEAKER.—We shall see that to-morrow.

Sri V. SRINIVASA SHETTY.—Sir, I will take clause 109 and drop other small matters. This is very important clause.

"Where in the investigation of on offence under this Act, any prohibition Officer duly empowered in this behalf by the State Government or any Police Officer, not below the rank of a Head Constable has reasonable ground for believing that a person has consumed an intoxicant and that for the Purpose of establishing that he has consumed an intoxicant or for the procuring of evidence thereof, it is necessary the his body be medically exmined, or that his blood be collected for being tested for determining The percentage of alcohol therein such prohibition Officer or Police Officer may produce person before a Registered Medical practitioner, (authorised by general or special order by the State Government in this behalf) for the purpose of such medical exmamination or collection of blood, and request such registered medical practioner to furnish a cartificate on his finding whether such person has consumed any inoxicant, and to forward the blood collected by him for test to the Chemical Exmaminer ro Assistant Chemical Exmaminer to Government, or to such officer as the State Government may appoint in this behalf."

"(2) The registered medical practitioner before whom such person has been produced shall exemine such person has been produced shall examine such person and collect and forward in the manner prescribed the blood of such person, and furnish to the officer by whom such person, has been produced. a cerificate in the prescribed form.....etc."

"(3) If any person offers resistence to his production before a registered medical practitioner under Sub-Section (1) or on his production before such pratitioner to the examination of his body or to the collection of his blood, it shall be lawful to use allmeans reasonably necessary to secure the production of such person or the exmination of his body or the collection of blood necessary for the test."

Sir, I am not Constitutional Lawyer, but I think this may go agaist Article 20 (3) of our Constitution. Under that, it is said that no person accused of any offence shall be compelled to be a witness against himself. I shall read the portion in the Commentary by Basu. This clause gives protection to the accused against compulsion to be a witness against himself.

"(3) Accused's immunity from being compelled to be a witness against himself.

"Compussion is on essential ingredient of the clause. The clause does not, accordingly, prohibit the admission of concession which is made without any inducement, threat or promise even though it may be subsequently retracted."

"It has been pointed out by the Supreme Court that the expression used in the clause is to be and not usto appear' as a witness. It follows, therefore, that the immunity given by the clause extends to immunity aginst being compelled to furnish any kind of evidence which is reasonably likely to support a prosecution aginst him."

"The word 'witness' also includes the accused himself and any person against whom a formal aceusation has bee i made *e. g.*, by recording a First Information Report. It also extends to any pre-trial evidence which may in the normal course result in the prosecution of the person from whom such evidence is obtained by compulsion. The guarantee, in short, is not confined to immunity testimonial from compulsion within the Court room."

"A single Judge of the Madras High Court has held that in view of the present clause, an accused cannot be compelled to give thumb-impression for the purpose of comparison with prosecution documents."

Sir, there is a similar case. It was held by a Judge of the Madras High Court that if a person accused is compelled to give his thumb-impression, that thumb-impression which is taken by compulsion cannot be used as a piece of evidence against him. Here in this Bill you find a provision made by virtue of which a person is. produced before the doctor and he can be forced to give his blood for the purpose of a test. Suppose he refuses, it will entail confiction. Under the Constitution, nobody can be compelled no accused can be compelled to give any supporting evidence against his own ease. The High Court has held the view that if you take the thumb impression by force, that cannot be used as an evidence in the trial of the case against him. Now you want to force him to give his blood for test which will show that he is drunk and that evidence is to be used in the court of law against him and he is to be convicted on the strength of that evidence

Sri VEERENDRA PATIL.—Sir, my friend is a lawyer. If a person consumes alcohol and if he is to be prosecuted in a court of law, I would like to know whether any court will be in a position to punish him in the absence of any chemical examination.

Sri J. B. MALLARADHYA.—The point is that the Court has to depend on other evidence except compelling the accused to give his evidence against himself.

Sri G. VENKTAI GOWDA.—Do you find such a provision in or the Act?

Sri VEERENDRA PATIL.—It is in the Bombay Act.

Sri V. SRINIVASA SETTY.—I do not know whether it is in the Bombay Act.

Sri VEERENDRA PATIL.—I would like to have suggestions in this respect from the Hon'ble Members. The Hon'ble Member Mr. Setty is an experienced advocate. Without giving suggestions for improvement, if you go on criticising, what is the use ? If there are good suggestions, I will be in a position to incorporate them. Please give constructive suggestions.

Sri B. L. NARAYANASWAMY.—Sir, if it is one or two matters which can be suggested, any Hon'ble Member can do it. But the Bill is defective in vital particulars wholesale. It is better that the Hon'ble Minister will even now withdraw the Bill and redraft it. That will be in the interest of good legislation.

Sri VEERENDRA PATIL.—Thank you for the advice.

Sri V. SRINIVASA SHETTY.—I am very sorry that the Hon'ble Minister who is also a lawyer should advance such an argument. Because it is difficult for a Magistrate to convict the accused you want to compel the accused to give evidence against himself. Why should adduce bad evidence ? I agree with the Hon'ble Minister that it may be difficult for the magistrate to convict. But that is no reason why they should adduce bad evidence. Is it an argument that some avidence must be adduced in order to secure conviction good or bad, constitutional or unconstitutional. That is a very bad argument to come from the Government at any rate. Sir, that the provision is unconstitutional is evident from Article 20 and decisions thereon.

My Hon'ble friend wants me to give suggestions. How can you escape from the provisions of the Constitution. That is the supreme authority and that is binding on everybody.

Sri VEERENDRA PATIL.—That means you have no suggestons to offer in this regard.

Sri J. B. MALLARADHYA.—You must explore other pieces of evidence to convict the acused and not depend on this sort of evidence. That is the suggestion given.

Sri G. N. PUTTANNA.—Sir, I want to ask the Minister. Are all the cases under the Prohibition. Act ending in conviction only ? There are independent evidences available. Even a women who is liable for punishment for infanticide cannot be produced before a Magistrate. The Law does not allow that. The Supreme Court judgement is there. Why do you want to compell him to give evidence. It is your duty to find other evidences. Law is nothing but commonsense. Do you mean to say that because you want to make your task easy, you should be allowed to take women and hang them before the Doctor ? You are encroaching upon the fundamental rights of the citizens. You are going very deep to cut the root of democracy. Why do you require us to satisfy you. You will never be satisfied so long as you are in the Congress. You leave it and come here.

Sri V. SRINIVASA SHETTY.—One very good suggestion which has already been given is to drop the Bill for the present and approach the Central Government it is constitution suggestion I am making approach the Central Government to amend the Constitution to suit your whims !

Sri VEERENDRA PATIL.—what about the Bombay Act which is already in force ? This provision finds a place in the Bombay Act.

Sri SRINIVASA SHETTY.—Sir, let me not say anything about the Bombay or the Madras Act. I am only concerned to see whether it is constitutional, whether it is reasonable, just or unjust. Why should the Hon'ble Minister take the Bombay Act ? Is that an argument. Apart from that, have you no other argument ?

Sri VEERENDRA PATIL.—That Act also is in force in some parts of the State. That is why I refer to it.

Sri V. SRINIVASA SHETTY.—If it is a mistake in Bombay, you are not entitled to repeat that mistake and say Bombay has done it. It is no argument at all. The only thing is, as I said, already, get the Constitution amended and find out some other method. As a lawyer, I would only give my suggestions to my clients, Not to others, As lawyers it is not good for us to give free advice.

Sri S. D. KOTHAWALE.—I think the Supreme Court has not so far held this provision to be unconstitutional. The Hon'ble Member is saying that this is the decision and the ruling of the Supreme Court. Please give me that ruling or decision. I will study it.

Sri G. N. PUTTANNA.—The Hon'ble Member Mr. Kothawale coming from the Bombay Presidency, if he tours the Kalghatgi taluk, he wil see the havoc caused by the Bombay Act.

Sri S. D. KOTHAWALE.—Because you say it is unconstitutional and that there is a Supreme Court Judgement, I want to know from the Hon'ble friend which is that ruling.

Sri C. J. MUCKANNAPPA.—Has not my friend any respect for the Madras High Court ruling Sir ?

Sri J. B. MALLARADHYA.—I am surprised that my friend Sri Kothawale who is a lawyer of good standing and for whom I have great respect, should still doubt the unconstitutionality of the provision. I will quote:

> "A single judge of the Madras High Court has held that in view of the present clause the accused cannot be compelled to give his thumb impression for purposes of using it as prosecution document. In a later case, the same judge has held that there is nothing in the article to prevent the prosecution from using the thumb impression which had been taken by the police in the course of investigation. It has been held that the clause does not preclude them from taking recriminatory article with compulsion. But where compulsion comes in, you cannot consider it as evidence."

Sri S. D. KOTHAWALE.—So far as the Evidence Act now stands, there is no real compulsion. That is the reason why provision has been made. It is an essentiality. The point is whether it is against the Constitution. Therefore let us see the Supreme Court judgement upon which reliance has been placed.

5-00 P.M.

Sri V. SRINIVASA SHETTY.— I have got this book from the Legislature Library. It is called " Shorter Constitution by Basu".

Sri S. D. KOTHWALE.— Please tell us the citation and we will find out the ruling.

Sri VEERENDRA PATIL.—Now we are having only general discussion. We will take up these points at the time of the clause by clause reading.

Sri V. SRINIVASA SHETTY.— I do not know why my friend is referring to Evidence Act. I am not at all referring to Evidence Act. I am only referring to article 23 of the Constitution. The Constitution makes it abundantly clear that any piece of evidence coming from the accused which is got by compulsion cannot be used against him for convicting him,

Sri S. D. KOTHAVALE.—That is not the correct interpretation

Sri V. SRINIVASA SHETTY.—I would only refer ro Clause 121. During war time punitive police were posted in certain areas. There is a similar Clause here in 121.

"*Employment of additional police.*—(1) If the State Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under Sections 58 to 63 the Stage Government may, by notification, direct the employment of additional police for such period as it thinks fit.

(2) The cost of such additional police shall, if the State Government so directs, be either in whole or in part defrayed by a tax imposed on the persons herein below mentioned or by a rate assessed on the property of such persons or both by a tax and by a rate so imposed and assessed, and charged.—

(a) either generally on all persons, who are inhabitants of the local area to which such notification applied ; or.

(*b*) Specially on any particular section or sections, or class or classes of such persons and the State Government may direct the proportions in which such tax or rate shall be charged.

*Explanation.*—For the purposes of this section, " inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area and land-holders who by themselves or by their agents or servants, collect rents or revenue direct from ryots or occupiers in such areas notwithstanding that they do not actually reside there in.

(3) The cost of the additional police and the tax to be imposed or the rate to be assessed shall be determined in the manner prescribed, by the State Government or such authority or officer that may be empowered in this behalf."

Excuse me, Sir, for using a harsh term. We have not come across a more barbarous provision than this except during war time and except in Bombay. This is the sort of legislation that is sought to be imposed upon this poor State.

My friends think that I wanted harsher punishments. I never wanted harsher punishments. I know several discussions have taken place about ways and means of effectively using the provisions of this law. I am sorry to make this cassandrous Statement. I am of opinion that no prohibition law will be successful in any country; it has not been successful. Prohibition is a very good ideal, a very noble ideal, but if you want to impose it by compulsion you will not be successful, whatever be the punishment. Even if the punishment be shooting, people will find out methods of avoiding it because the word "prohibition" is itself very obnoxious- If you prohibit a child from doing something, it will only try to do that very same thing. If you try to prohibit people from drinking, they will find out ways and means of hoodwinking you and drinking. In cinemas you find it written "For adults only", but of necessity childern flock there to see it. This is most common. I may tell the Government that drinking has gone on hundred-fold and people in every house where distillation takes place drink inculding men, women and childern. Formerly they had to go to the shop and drink in the open, but now since it is distilled in every house they are not afraid and they drink and nobody is ashamed of drinking even in public. Every household drinks. That is the state of affairs practically all over the State. We do not want to obstruct law, but we do not want this obnoxious provision. I know there is difference of opinion on this point but for the good of the State we ought to come to an understanding. Let us sit together and try to evolve a saner and a wiser piece of legislation. Within the House it is very difficult to do that. So let us sit together in a Committee and evolve a saner piec of legislation. Let there be a Joint Select Committee of this House and the upper House. There I can argue my point and try to win over you to my side. I know here the Government have got a bulldozer majority and they can get anything passed. But I would only say, please do not do that. For the sake of the good of the country, let us sit together and discuss. We are prepared to come to some settlement with you, Therefore, I suggest that this Bill, obnoxious as it is, be referred to a Joint Select Committee in which we can evolve a saner piece of legislation.

With these words, I thank the Chair for having given me this time. I have not been able to say all that I wanted to say, but I shall reserve my further comments for the clause by clause reading stage.

† Sri M. C. NARASIMHAN (K. G. F.).—Sir, this is an important piece of legislation which merited more careful examination by the Government. At least in the beginning I thought that while presenting the case for Government and presenting this Bill, some intelligent arguments would be advanced by the Minister while introducing the Bill. but unfortunately he chose to be laconic and merely referred to a few provisions here and there. That by itself confirms the criticism from this side that he did not have much to say. As has been pointed out by my friend Sri Srinivasa Shetty this consolidating piece of legislation is really opposed to all canons of fairplay, justice and the provisions of the Constitution and even common sense. It is not based at least on some concepts of social science. After all, this is a social evil. But what is surprising is that the Government is impervious to anything based on experience.

In this connection I am reminded of a famous saying, of an epigram by Oscar Wilde, that experience is the repetition of mistakes. Hitherto, I was under the impression that this epigarm is only partially true but while hearing to Mr. Veerendra Patil I was definitely convinced that it is true so far as Mr. Patil and his Government is concerned.

Asan extenuation of the case in favour of prohibition it is stated that it has been in force in Bombay. I must say "Shame to Bombay and Bombay's legislators". I have seen several Members from Bombay have participated in the debates here and atleast some of them have spoken the truth when they said that in Bombay, where it has been in force for a much longer period than in Mysore, Coorg or Madras, the prohibition law did not fare better, neither did the morale of the people rise high on this account. The number of offences has not come down though the act provides for severe and stringent punishments. It is just as good or as bad as the law in the other integrating areas. That proves satisfactorily that this law cannot succeed if it is sought be enforced throught the Danda or by provision of severe punishments. Social standards cannot be improved by legislation. Mr. Shetty pointed out that increase in punishment only leads to corruption and other forms of abuse.

When this matter was being discussed in this House last year, I reminded the House that in China there was a law against drinks. It provided for shooting of offenders. It proved ineffective and was later withdrawn. That only goes to prove that mere increase of punishments or making the law more rigorous should not lead one to the conclusion that the law is being enforced vigorously or that the evil has been totally wiped out.

One of the arguments put forward customarily is that India is a country where this kind of social legislation can be successful. If we point out that in Amcrica and the Scandanavian countries this law has been given up after trial, we are countered by the argument that India is a country where the social climate is conducive for the scess of schucu

a law. It is said that religions do not sanction drink. I must say that such information is incorrect. So far as I know the Hindu religion does not prohibit drink. I will read a passage from the Andhra Prohibition Enquiry Committee Report, page 54. It admits that drinking is an ancient habit. There was reference to liquor in the Rigveda and Puranas. Manu prohibited Brahmins from drinking. I do not know why Mr. Veerendra Patil goes a step further and prescribes that all should not drink. I would have understood, if he had prevented Brahmins from drinking. (laughter). Of course our ancients said that abstenance is a virtue. In Kautalya's Artha Shastra reference is made to the Superintendent of Liquor as one of the officers of the King. His function is to regulate liquor drink. This was the state of affairs in 300 B.C. I do not know how my friends argue that in ancient days drinking was not prevalent.

Sri VEERENDRA PATIL.— Your arguments appear to be that there should be no prohibition at all in this country.

Sri M. C. NARASIMHAN. — Quite true. My point why should false and pseudo arguments be advanced in favour of prohibition. You justify it on other grounds. What did Mr. Chennabassappa say last year. When it was pointed out that in America the prohibition experiment was a thorough failure and was given up after trial, he said that India is a country wherein such a legislation could be enforced. He said the country is opposed to drinks. If that is a fact, I do not know why this law becomes necessary. Much more so there is no need for such periodical enhancement of punishments. The very fact that you come before the House and ask for increased punishments show that your policy has totally failed. If people are really for absterance, then minor punishments would serve the purpose. They do not come before the House for plugging loopholes but they come only to step up punishments. That is a proof positive that prohibition cannot be enforced as a law.

Sri S. D. KOTHAWALE.— The ideal of prohibition is one thing, its enforcement is another. Does Mr. Narasimhan oppose prohibition as a policy.

Sri M. C. NARASIMHAN.—We are not here to Legislate for an ideal. Why not legislate abolishing smoking. I am against smoking. Why not pass laws prescribing other morals.

Sri S. D. KOTHAWALE.—But are you opposed to prohibition as such. Do you favour encouragement to drinking.

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.— ಈ ಅರ್ಧ ನಾರೀಶ್ವರ ಏಕೆ ಅಂತ ಅಷ್ಟೇ ನರಸಿಂಹನ್ ರವರು ಹೇಳಿದ್ದು ದೇಶಾದ್ಯಂತ ಕುಡಿತವನ್ನು ನಿಲ್ಲಿಸಿಬಿಡಿರಿ. ಇಲ್ಲದಿದ್ದರೆ ಎಲ್ಲರಿಗೂ ಕುಡಿಯುವುದಕ್ಕೆ ಕೊಡಿರಿ.

ಅಧ್ಯಕ್ಷರು.— ರಾಯರ್ ಫೀ ಎಲ್ಲಿ ಸಿಕ್ಕಿತು?

Sri M. C. NARASIMHAN.— It is not a question of enforcing the ideal through the legislative processes. If an ideal relates to the morals of men and is not capable of being realised, it is wisdom to give it up, It is better to entrust it to people like Vinobha Bhave. Mr. Kothawale can better go in ashew and sack cloth and preach to the country the benefits of abstenance. That would be proper.

Sri S. D. KOTHAWALE.— You are avoiding the qcestion. My question was if you are opposed to prohibition in principle. As regards its enforcement there may be differences of opinion. As my friend Sri Srinivasa Shetty we can sit together and evolve some method.

Sri M. C. NARASIMHAN.— My point is simple. There are several ideals. This is not the only ideal. The question before the House is whether enforcement by legislation would be the proper way of bringing about abstenance. I say we cannot realise it through the force of law. I say that this ideal can be reached only through persuasion and propaganda. That is the experience of other countries, that is the experience of social science. You point out a single country which has achieved success in this direction. You point out in our own history, a single instance where a monarch has brought about abolition of drinking through the process of law or through coercive powers of the State. Why do you then presume that you alone, of all people in this country, in this would, whether of the past or the future, can bring about this happy thing. Has anybody thought it fit to legislate about Ten Commandments which has been there since timesimmemorial Our Dharma was not enforced by legislation. By persussion, by social conduct, they observed the principles of Dharma. Why do you think of achieving this ideal. Why are you intoxicated about prohibition policy. I thought that only persons who drink are intoxicated but here you are who are intoxicated by this ideal. I am only putting it on that plane and not saying that it is not an ideal· After all, every good thing in this world is an ideal. Everybody will say we are for good. After all, we are not legislating for a community. We are not trying to induce or create good people only. There must be bad people and there must be good people, and there must be people who are indifferent to moral virtues.

An HON'BLE MEMBER.—What about Kerala?

Sri M. C. NARASIMHAN.—The policy was simple. They did not go to the extent of foolishness of prohibiting in some areas and not prohibting in some other areas. They did not extend it.

Sri S. D. KOTHAWALE.—Why did they not scrap it the Communist Government in Kerala?

Sri M. C. NARASIMHAN.—That is another aspect. The Planning Commission said that if we scrap prohibition, we would not be entitled to certain help in regard to the Second Plan. That is the way in which Democracy works.

Sri S. D. KOTHAWALE.—You produce some documents to show what you stated just now.

Sri M. C. NARASIMHAN.—Sir, this is very extraordinary.....

Sri C. J. MUCKANNAPPA.—Sir, he has become a defence counsel.

Sri M. C. NARASIMHAN.—One of the fundamental arguments was that India is one country where prohibition can be enforced. But fifteen years of experience must have taught wisdom. There are weighty commissions of enquiry which have gone into this question. If the framers of this Bill had gone on some such impartial enquiry, I would have agreed. Is there a single enquiry which supports the scheme of prohibition ? There was the Rama Murthy Enquiry Commission, Andhra Prohibition Enquiry Commission of 1954. There was a similar enquiry committee appointed in Madhya Pradesh. I am sure that the Government or the sponsor of this Bill will agree that Mr. Rama Murthy or Mr. Neogi are men of integrity, whose honesty cannot be questioned, whose integrity cannot be questioned. They have come to the unanimous conclusion that prohibition scheme is a failure. I will read a paragraph about the conclusion they have come to. I do not want to take much time of the House. But because it is an important point, on which there is a violent argument –the members of the ruling party, whenever they are keen, they talk with violence and intoxication as when the Vice-President of the M.P.C.C. said how it is not enforced. However, Mr. Veerendra Patil is not able to convince his own colleague. If so, how can he convince the whole world? What foolishness it is? Here is what the Prohibition Enquiry Committee says:

> "If, however, a method was followed, and on an examination of the results of that method after a trial for a number of years, it is found that instead if enhancing the welfare of the individual and the State, drunkenness had spread, illicit distillation is rampant, corruption of officials charged with the duty of enforcing law is on the increase, disregard of the law by the people and lack of support of the people in enforcing the law is obvious, it does not mean that the State has no option to change its methods and follow, instead of a purely coercive method. A constructive and partly coercive method It is not possible to reform the character of the people overnight by a Legislative provision. The drink habit has become part of the second nature for the people both illiterate and also literate, to some extent. It is necessary to reform the individual by a slow process. The spread of education, the raising of the economic status of the individual, intensive propaganda against the drink evil must precede and prepare the ground for the reformation of the individual. Public opinion must be strengthened."

These are constructive methods. If Mr. Kothawale is so anxious to make prohibition a success, is he prepared implement these constructive

(Sri M. C. NARASIMHAN)

methods? If not, I must only say that he is paying mere lip sympathy to prohibition. I will only point out one other thing. Formerly, there were committees for the propagation of temperance. Now, the first act done by this Government is to abolish all these temperance committees. Is there a single temperance committee in the State? Is there a single prohibition committee which is functioning to-day? In practice the work of the temperace committees was found to be good. But even propagating, they are not prepared to do. Now they come forward and say that they are going to achieve the millenium and Sri Kothawale wants to strive for it. If we take the opinion of weighty committees which have gone into this question, who have been impartial, we find that they have come to the unanimous conclusion that coercive methods will never work for a success.

Now the other argument is that simply because there is more violation of the Act, does it not mean that it should not be enforced? There is thieving, murder and the other offences against which there is the law. It is there from time immemorial. So likewise prohibition is there. But there is a distinction and it is very important. Between prohibition offence under the scheme of the Prohibition Act and all other offences, all other offences are reduced to a minority when compared to this. I think that Mr. Kothawale and Mr. Veerendra Patil will agree that in a majority of the areas, the maximum litigation is under the Prohibition Act. I think the most prosperous lawyers are the prohibition lawyers. I may not be mistaken I am sure, being a lawyer, I am suspecting that Sri Veerendra Patil wants to place in the hands of lawyers a more lucrative weapon. These days a simple fine of four or five rupess is levied for a prohibition offence. Now because it involves imprisonment in the case of a person like a worker and it will in its turn mean loss of employment, and because it is a non-bailable offence.....

An HON'BLE MEMBER.—What about Government servants?

Sri M. C. NARASIMHAN.—Naturally, he will readily go to a lawyer. Where he was readily agreeable to accept the offence and allowed himself to be convicted, which would be a fine of five rupees, now he will have to go to a lawyer. I am sure that Mr. Kothawale and Mr. Veerendra Patil have conspired together to place in the hands of lanryers lucrative weapon. I do not believe that Mr. Veerendra Patil is sincere in it.....

Sri S. D. KOTHAWALE.—For his edification, Mr. Narasimhan may know that even one thousandth portion of the disputes do not go to the Courts. It is a very minute minority that go to the courts for settlement of their disputes. You are absolutely wrong there. Most disputes are regulated by personal accommodation. Even in the mercantile community, I may say that even onethousandth do not go to the court. If everything has to be brought before the Court, every villager will have to go to a court of law.

Sri M. C. NARASIMHAN.—My point is simple. Under the Mysore Prohibition Act, formerly, drinking was a minor offence. Drunkenness would be fined five rupees. Now it is one month's imprisonment drunkenness in a public place–it is under Section 76 or so. Formerly it was a minor offence for which a fine of five rupees would be leveied In K. G. F., a new Magistrate would impose a fine of Rs. 25. But when such cases go before him on a large scale, he would reduce the fine to Rs. 5. Invariably, the fine would not be more than five rupees. The worker would pay the fine of five rupees and would go out and have a drink again.

Sri VEERENDRA PATIL.—If the worker pays the small fine and then goes again to drink, how are you to enforce prohibition?

Sri M. C. NARASIMHAN.— I do not know about South Kanara. K. G. F., it is said, is an ideal placc where prohibition can be enforced. There is no conplicated housing structure there You can go to any place and raid any area. Everybody knows each other.....

It is in a concentrated there. Some of the best police officers have said that it is the best place for enforcing prohibition. It is very easy to enforce it there because you can enter any house and there are no big people who will create trouble; they are all poor workers. Even in such a place the police have found that it is not possible to enforce it. There you will find that at least about 10,000 people are convicted for prohibition offence every year. I was telling the Chief Minister the other day that if the Mysore Habitul Offenders Act were enforced, about 7,000 persons will be punishable under it. In the course of our Conversation, he also humorously said that 'we will put Sri Basavalingappa in charge of Kolar'. Unless the miners drink, they cannot do strenuous work under ground. In fact, the whole offence is spread over such a wide community that it is not wisdom to legislate and provide for penal offences. Even if Sri Veerendra Patil and the Congress Legislature Party say to-day that public opinion is in favour of prohibition, I do not agree with them because I know that even the Congress Party is against it. It is very clear from the debate in this House.

5-30 P.M.

Sri VEERENDRA PATIL.—The Congress members have implicit faith in prohibition policy.

Sri C. J. MUCKANNAPPA.—Please go through the speech made by my friend, the Vice-President of the M.P.C.C. He did make a speech against prohibition.

Sri S. D. KOTHAWALE.—He only wanted enforcement to be tightened up.

Sri M. C. NARASIMHAN.—A specific question has been asked and he has answered it. Now, let us see what Amrit Kaur said about prohibition. She issued a public statement about it. Is she not a Congress worker? Are you prepared to follow what she said? Have you got the courage

(Sri M. C. NARASIMHAN)

to remove her from the Congress? After relinquishing the post of Central Minister, she came out with a statement that prohibition is a failure. She openly attacked it on fundamental grounds and not merely on grounds of expediency.

Sri VEERENDRA PATIL.—She said that prohibition is a failure but that does not mean that it is a failure.

Sri M. C. NARASIMHAN.—She made it very clear in a public statement that it cannot be enforced. I am prepared to give you the paper cutting of that Statement. Are you prepared to listen to her advice? I am sure that you are not such loyal congress men as that.

Sri S. D. KOTHAWALE.—You are quoting Amrit Kaur. Why don't you quote several well-know persons who have said that prohibition is a success?

Mr. SPEAKER.—Perhaps what Sri Kothawale means is 'why don't you quote Sri Morrji Desai?

Sri J. B. MALLARADHYA.— Sir, I have gone to Bombay after the introduction of prohibition. You examine any car and you can get at least two bottles of liquor. Everybody knows that in spite of the best police they have not been able to enforce it there. Is the Hon'ble Member Sri Kothawale aware that the Hon'ble Health Minister's cook in Bombay was doing it as a part of his cooking operation?

Sri S. D. KOTHAWALE.—The Health Minister is not responsible for that.

Sri M. C. NARASIMHAN.—I do not know whether Sri Kothawale is aware of the fact that the Gokhale Institute of Economics, Poona, some years ago investigated—it was not merely a sample survey—somewhere in Dharwar and they have some very strange things to say. They came to the conclusion that the offences were very widespread. One interesting thing was that after prohibition was introduced the income of persons had increased. The Hon'ble Minister Sri Rachaiah has also advanced the argument that it will improve the economic standard of the people and that it will help the Scheduled Castes and Scheduled Tribes people. After the introduction of prohibition, they found that actually there was an increase in illicit distillation and that the income of people had increased.

Mr. SPEAKER.—Has not the Gokhale Institute of Poona supported prohibition?

Sri M. C. NARASIMHAN.—No. I am referring to their findings. I do not think they have said anything about the success or otherwise of the prohibition policy. It was only an economic investigation under taken by two investigators into prohibition in Dharwar District.

This is called a Prohibition Bill. Is it really so? It is not. I would have been very glad if you had copied the American law on the

subject rather than the so-called Bombay legislation. In the American Legislation, it was complete prohibition; there was no question of any exemption or anything like granting of permits. Even foreigners were required to observe the law when they came to America. Here, that is not so. On grounds of religion, you are prepared to exempt; on grounds of health, you are prepared to exempt and on the ground that they are tourists, you are prepared to exempt. Obviously, it means that you feel that for these reasons it cannot be enforced. I would ask the Minister why he has not enforced this law against the foreigners. Are there not tourists from other places in India? Why should foreigners be shown any favour? The American legislation did not do so. In the Bulsar case the Supreme Court passed a definite remark about such a thing. The Bombay High Court also in that particular case has remarked that there was one clause which discriminates against the local citizens from foreigners. That Act permitted foreigners to take drinks in parties whereas it prevented the local people from drinking. The Bombay High Court has ruled that it amounts to discrimination. So, why should you say that foreigners alone should be exempted.

Sri VEERENDRA PATIL.—By encouraging foreign tourists we will be earning foreign exchange whereas is it not so in the case of local people.

Mr. SPEAKER.—The point is this: in the case of all tourists we have not been enforcing this principle of prohibition because we do not want them to follow us. They stay here for a short time.

Sri G. N. PUTTANNA.—When the foreigers come to India, if they are not supplied with drinks, they will not praise the Congress Goverument that they are doing good work. That is why exemption is given.

Sri K. PUTTASWAMY.—Sir, under the guise of making an attack on the Government, my Hon'ble friend has made a very uncharitable remark about the foreign visitors. I wish he had not done so.

Mr. SPEAKER.—Such a statement amounts to casting an asperion on foreign Tourists. Does the Hon'ble member mean to say that by merely permitting them to drink here, they praise the Government?

**ಶ್ರೀ ಜಿ. ಎಚ್. ಪುಟ್ಟಣ್ಣ.**—ಈ ಹಿಂದೆ ಇದೇ ಕಾಂಗ್ರೆಸ್ಸಿನವರು **ಜನರಿಗೆ ಕುಡಿಸಿ–ಅವರಿಗೆ** ಹಾರಾತುರಾಯಿ ಹಾಕಿ, ಅವರಿಂದ ಓಟ್ ಪಡೆದು, ಈಗ ಈ ರೀತಿ ಹೇಳುತ್ತಿದ್ದಾರೆ. **ಇದಕ್ಕೆ ನಾನು** ಸಾಕಷ್ಟು ರುಜುವಾತು ಕೊಡಬಲ್ಲೆ.

ಒಬ್ಬ ಸದಸ್ಯರು.—ಯಾರು ಹಾಗೆ ಮಾಡಿದರು?

**ಶ್ರೀ ಜಿ. ಎಚ್. ಪುಟ್ಟಣ್ಣ.**—ನೀವು ಆಗಿನ್ನೂ ಕಾಂಗ್ರೆಸ್ಸಿಗೆ ಸೇರಿರಲಿಲ್ಲ!

**ಅಧ್ಯಕ್ಷರು.**—ನೀವು ಕಾಂಗ್ರೆಸ್ಸನ್ನು ಬಿಟ್ಟಿರಿ ಆನಂತರ ಅವರು ಸೇರಿದರು. **ಪಾಶ್ಚಿಮಾತ್ಯ** ರಾಷ್ಟ್ರಗಳಲ್ಲಿ ಬೀಫನ್ನು ಒಂದು ಪ್ಲೇಟಿನಲ್ಲಿ ಮುಚ್ಚಿಕೊಡುತಿರುತ್ತಾರೆ. ಬೇಕೆಂದು ಹೇಳಿದರೆ ಸರ್ವ್ ಮಾಡುತ್ತಾರೆ–ಇಲ್ಲದಿದ್ದರೆ ಬಿಡುತ್ತಾರೆ. ಹಾಗೆ ಸಪರೇಟಾಗಿ **ಸರ್ವ್** ಮಾಡುತ್ತಾರೆ.

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ (ಗುಬ್ಬಿ).—ಅಲ್ಲಿ ಬ್ರಾಂಡಾಲ್ ಸಿಕ್ಕುತ್ತೆಯೇ?

ಅಧ್ಯಕ್ಷರು —ಸಿಕ್ಕುತ್ತೆ. ಬನ್ನಿ ನಿಮಗೂ ಕೊಡಿಸೋಣ.

Sri M. C. NARASIMHAN.—It is not merely the tourists. Even the foreigners who are domiciled here, have been exempted.

Sri VEERENDRA PATIL.—We have said foreingers residing in our country temporarily.

Sri M. C. NARASIMHAN.—What I am trying to submit is, you. Mr. Speaker are well aware that when we go abroad we are bound to accept the law obtaining there. Merely because they are foreigners, should they be exempted.

Sri J. B. MALLARADHYA.—For example in foreign countries inviably they supply beef in hotels. Merely because an Indian does not take it, do they.....

Mr. SPEAKER.—They do not force us to eat it.

Sri M. C. NARASIMHAN.—The vegetarian food is cooked in the same vessel.

Mr. SPEARER.—That is a wrong impression. Beef is separately served.

Sri M. C. NARASIMHAN.—No doubt it is separately served. But it is cooked in the same kitchen. I know it.

Mr. SPEAKER.—That may be so in Communist countries.

(*Laughter*)

Sri M. C. NARASIMHAN.—Now, according to this Bill emergency permits can be issued at any time. So, we can see that there is really no question of total prohibition On religious grounds it can be exempted. It is extremely difficult to determine this. Are there not some communities who can claim exemption? I know that Coorgies are expected to drink on marriage occasions. I know that people in K.G.F., *i.e.*, the Scheduled Castes consider liquor as absolutely neccssary. In fact when I started working in that place only 10 per cent of the workers were drinking Now it is more than 70 per cent.

Sri J. B. MALLARADHYA.–It is due to your efforts ! (*Laughter*).

Sri M. C. NARASIMHAN.–If I want to deprive myself of the membership of that area. I may oppose it. The police, and for that matter, everybody knows about it. In fact Mr. Channiah, the then Health Minister who visited and canvassed opinion did not succeed in enforcing prohibition atleast in Kolar Gold Fields. Sri Hanumanthaiya definitly made a promise in a public meeting that at least in Kolar Gold Fields, there is no point in having prohibition.

Sri J. B. MALLARADHYA.–One important point which my friend revealed. If my friend the Hon'ble Minister for Excise were to go to Madras and if there is a public place or a hotel, he will see that drinks are available in plenty and if foreigners order for drink, they can

drink any number of bottles; but if an Indian in the company of foreigners were to ask for drinks, he is denied in his own country. This amounts of discriminaion. I do not take a drop of drink though I have then reputation of being boozer. In the company of foreigners if I want to order for drink for myself, the hotel fellow does not bring it and I am prevented from drinking, while a foreigner, whether he is a German, or Italian or Swedish or Czecholovakian, can get it any amount. In Delhi it is different and we are all treated alike there. Why should you make that kind of discrimination? ಮನೆಗೆ ಮಾರಿ. ಪರರಿಗೆ ಉಪಕಾರಿ ಎಂದು ಕನ್ನಡದಲ್ಲಿ ಗಾದೆಯಿದೆ. ಹೀಗೇಕೆ ಮಾಡುತ್ತೀರಿ ?

Sri M. C. NARASIMHAN.—Section 36 lays down all sorts of restrictions which are opposed to fundamental rights guaranteed under the Constitution because it says that liquor may be given for sacramental purpose. Sacramental purpose is not defined anywhere in the Act.

Sri J. B. MALLARADHYA.—In Bombay is there this kind of discrimination?

Sri M. C. NARASIMHAN.—Yes.

Sri J. B. MALLARADHYA.—In Bombay there is no such discrimination and I do not see why we in Mysore should do it.

Sri M. C. NARASIMHAN.—In support of Mr. Mallaradhya I may say that there was a rule against which the High Court of Bombay made an observation that we should discriminate between foreigners and Indians. I was saying that this exemption clause given here does not say it is meant for religious purposes, but it says that it is meant for sacramental purposes, but the Act itself does not define what sacramental purpose is Perhaps they are having in mind only Christians. If it is only Christians I would like to ask is it not discrimination? You cannot have legislation purely on the basis of religion because if I practise Christianity, I get the right to use liquor for certain purposes. I am not entitled to get liquor on the ground that I practise Christianity but on the ground I pactise Hinduism, I am not entitled to get this specific privilege which found in Section 36. I say it definitely offends the articles of the constitution.

Sri S. D. KOTHAWALE.—If the Hon'ble Member is interested, I may point out that Section 45 of the Bombay prohibition Act contains similar provision entitling a person to use liquor for sacramental purposes.

Sri J. B. MALLARADHYA.—I am asking whethre discrimination is made between foreigners and Indians under the Act.

Sri M. C. NARASIMHAN.—If on the ground that I am entitled to get exemption and if I am outside the penal provisions of this Act, can the State come forward and say that because I am Hindu I am not entitled to that exemption? *Prima facie* it does not appeal to anybody as it is discriminatory. Leave alone the Constitution. I would ask in fairness to the terms of equity, if you cannot enforce legislation against Christian,

(Sri M. C. NARASIMHAN)

how are you entitled to enforce it against the Hindus? What is the crime they have done? you can go to vedic literature and say that your forefathers used to drink and we should be given that privilge. I do not want to put it on the basis of privilege. I am saying why do you bring it within the net of this penal provision? It is not only that. The sudsequent clause offends another article of the Constitution. It is self-contradictory. Sir. for example Article 36 (3) says:

> " If in any community there is no person who exercises control over sacramental matters relating to such community, and if, in the opinion of the State Government, it is so desirable. the authorisation under this section may be granted on the recommendation of such member of the community as may be approved by the State Government in this behalf,"

So, it says that it is not sufficient that liquor is required for sacramental purpose. He must also go to a person and to the satisfaction of the Government he must obtain a permit from the person authorised by the Government. This is definitely a restriction which is unreasonable. Article 25 of the Constitution says,

> "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Freedom to profess religion is very important. There cannot be any restriction on that. If I belong to Christianity and profess Christian religion, it means I can use liquor for sacramental purpose. You cannot impose that restriction on me saying that I should go to a person authorised by Government. Unless that person gives me a licence, I cannot get the right to use liquor for sacramental purposes. It is definitely against the provisions of the Constitution. Clause 36 is self-contradictory in character. It says that Christians alone are entitled to get exemption. Scondly, if you authorise a particular person to issue a licence for liquor, it is also wrong. So, that is why I said that it is unconstitutional and opposed to any known principles of social justice. I take very serious objection to this. It is also an unreasonable restriction on the trade. For example Clause 16 says:

> " Nothing in this Chapter shall be deemed to apply to any toilet, medicinal or antseptic preparation or solution, etc".

That means even if it contains alcohol, it will not come within the mischief of this Legislation in so far as it follows particular restrictions. If they are only restrictions, then we would have no objection. But Section 49 says:

> "No manufacturer of any of the articles mentioned in Section 16 shall sell, use or dispose of any liquor produced or processed for

the purpose of such manufacture under the provisions of this Act,etc.....

Provided that in the case of manufacture of any of the articles mentioned in Section 16 in which the alcohol is generated by a process of fermentation, the amount of such alcohol shall not exceed 12 per cent."

6-00 P.M.

This means that if any toilet or medical preparation in which the alcohol content is in excess of 12 per cent, then you are prevented from manufacturing such medicine; that is the effect of the legislation. Definitely it will affect articles of the Constitution. Because, it is not a restriction; it is a total prohibition of manufacture of any toilet simply because it contains alcohol more than 12 per cent. There are medical preparations which contain definitely alcohol more than 12 per cent. Vincarnis is a thing which is customarily used for anaemic condition, etc. It is not a drug; it is given more as a tonic; it contains alcohol more than 70 per cent. It may come within the mischief...

Mr. SPEAKER.—The Hon'ble Member may continue his speech to-morrow. The House now rises for the day and will meet to-morrow at One of the Clock.

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*The House adjourned at Two Minutes past Six of the Clock to meet again at One of the Clock on Wednesday, the 23rd August* 1961.

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